

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-077-10129R

Parcel No. 060/00713-225-011

Michael and Teresa Corcoran,

Appellants,

vs.

Polk County Board of Review,

Appellee.

Introduction

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on May 20, 2020. Michael Corcoran was self-represented. Assistant Polk County Attorney David Hibbard represented the Board of Review.

Michael and Teresa Corcoran own a residential property located at 3600 Village Run Drive, Des Moines. The Polk County Assessor set the property's January 1, 2019, assessment at \$324,400. (Ex. B).

Michael Corcoran petitioned the Board of Review contending the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(2) (2019). (Ex. C). The Board of Review lowered the assessed value to \$318,800 by reducing the property's land value. (Ex. B).

Corcoran reasserted his claim to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction over this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story home built in 2005. It has 1726 square feet of gross living area, 1200 square feet of living-quarters quality basement finish, a deck, a patio, and an attached three-car garage. The home is listed in normal condition with a high-quality (2-05) grade. (Ex. A).

Teresa Corcoran purchased the subject for \$306,000 in 2007. Michael Corcoran testified the purchase price was inflated because Teresa rolled other personal liabilities into her loan, thus increasing the sale price. He asserted the actual purchase price of the property was closer to \$285,000 and believes the value has gone down since 2007 because of the damage to the rear yard, as well as disrepair of the street. He testified properties across the street from the subject property currently sell between \$180,000 and \$250,000. His appeal indicates his belief the property should be assessed for \$240,000 and he testified his opinion was based upon the sale of the property “two houses up.” Regardless, he believes the subject property should be valued for even less because the water issues on the subject property are not present on the sold property. Corcoran did not provide any addresses or other documentation to support his

assertions regarding the neighborhood sales. Thus, we are unable to make findings regarding the comparability of those properties or determine whether the sales were normal, arm's-length transactions.

The subject's site is a 0.291-acre rectangular shaped lot. (Ex. A). The subject's cost report shows a negative ten percent topography adjustment has been made to the subject's land value.

Michael described his rear yard, which has a creek running through it, as more akin to a storm sewer. He believes the creek is really a storm sewer and should be maintained by the City of Des Moines. (Ex. C). He asserts creek flooding has caused extensive damage and has required extensive repairs. He explained the creek was approximately five-feet wide when the property was purchased but has expanded an additional twenty feet since that time. The water has washed away trees and landscaping which he has been required to clean up and repair. Further, he is unable to use about one-third of the lot because the ditch and creek make it unusable and limits access.

Corcoran submitted a letter from the Brook Run Village Owners Association to a Des Moines City Councilwoman and City of Des Moines employees with his Board of Review petition. It seeks the City's help in addressing storm water flow and erosion in the Brook Run subdivision. The letter describes the repairs needed in the development as a whole, identifies the creek as a storm sewer, and states the stream banks are under private ownership and there are no "easements along the waterways." The letter, however, gives no specifics for the subject property or demonstrates how these needed repairs affect the subject's market value.

In addition to the creek issues, Corcoran explained the street in front of his home is severely cracked. He testified the only repairs by the City has been some asphalt patching and believes no one would buy his home for over \$300,000 with the street in disrepair.

Corcoran submitted no additional exhibits or evidence other than a letter that was a part of his original petition to the Board of Review.

The Board of Review called no witnesses.

Analysis & Conclusions of Law

Corcoran asserts the subject property is assessed for more than the value authorized by law. § 441.37(1)(a)(2).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). If PAAB determines Corcoran has established the grounds for their protest, then PAAB must make an independent determination of the property's correct value based on all of the evidence. *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 397 (Iowa 2009) (citations omitted).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(b). Market value essentially is defined as the value established in an arm's length sale of the property. *Id.* The sales comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). "Sale prices of the property or comparable properties in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration in arriving at its market value." § 441.21(1)(b).

In protest or appeal proceedings when the complainant offers competent evidence that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or persons seeking to uphold such valuation. Iowa Code § 441.21(3)(b)(2) (2019). To be competent evidence, it must "comply with the statutory scheme for property valuation for tax assessment purposes." *Soifer*, 759 N.W.2d at 782 (citations omitted).

Corcoran testified regarding the general prices of properties in the neighborhood, his property's condition, and the condition of the street in front of his home. However, he gave no specific addresses or sale prices and made no comparisons to the subject for their differences. Without this evidence, we are unable to evaluate the properties'

comparability to the subject or determine whether the sales are normal transactions. He did not submit an appraisal or comparative market analysis as would typically demonstrate the market value of the subject. He did not submit any photos or cost estimates for repairs already completed or needed to the subject property. A letter from his Owners Association is in the record and discusses the drainage situation in the development. However, the letter gives no specifics for the subject property and does not demonstrate how these needed repairs affect the subject's market value. Considering the record as a whole, we find Corcoran has not provided evidence consistent with section 441.21 that demonstrates the market value of the subject property.

PAAB acknowledges the testimony and evidence is demonstrating a detrimental effect on the property's market value because of the creek and erosion problem. The assessment recognizes this impact through a negative 10% topography adjustment. Because Corcoran has not provided evidence demonstrating the property's market value, we cannot say the existing adjustment is insufficient or that the property's current assessment is excessive.

Based on the foregoing, we conclude that Corcoran has failed to meet his burden of demonstrating the subject property is assessed for more than the value authorized by law.

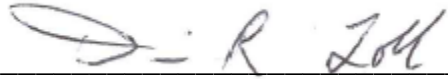
Order

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A.



Dennis Loll, Board Member



Elizabeth Goodman, Board Member



Karen Oberman, Board Member

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Polk County Board of Review by eFile